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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	
HIGHLAND CAPITAL	§	Chapter 11
MANAGEMENT, L.P.	§	
	§	Case No. 19-34054-sgj11
Debtor.	§	

**HUNTER MOUNTAIN INVESTMENT TRUST'S
EVIDENTIARY PROFFER PURSUANT TO RULE 103(a)(2)**

Hunter Mountain Investment Trust ("HMIT"), Movant in these Contested Proceedings relating to HMIT's *Emergency Motion for Leave to File Verified Adversary Proceeding* [Doc. 3699] and *Supplement to Emergency Motion for Leave to File Verified Adversary Proceeding* [Doc. 3760] (together the "Motion for Leave"), files this Evidentiary Proffer Pursuant to Rule

103(a)(2) (“Proffer”) related to the Court’s Memorandum Opinion and Order Granting Joint Motion to Exclude Expert Evidence [DE # 3820], dated June 16, 2023, Docket No. 3853 (“Exclusion Order”), which granted the Joint Motion to Exclude Testimony and Documents of Scott Van Meter and Steve Pully (“Motion to Exclude”) filed by Highland Capital Management, L.P., Highland Claimant Trust, and James P. Seery, Jr. (collectively, the “Highland Parties”), and would show:¹

1. The Court’s Exclusion Order excludes the proposed testimony of Scott Van Meter and Steve Pully and HMIT Exhibits 39-52, on the basis that the experts’ opinions would not assist the trier of fact. In light of the evidentiary format of the June 8, 2023 Hearing, and subject to HMIT’s objections to this format, the exclusion of this evidence affects the substantial rights of HMIT in connection with its Motion for Leave. The evidence would further support the colorability of HMIT’s allegations that the claims at issue were acquired in the absence of due diligence and based on the use of Material Non-Public Information. The testimony also further supports the colorability of HMIT’s

¹ This Evidentiary Proffer is filed subject to and without waiving any of HMIT’s substantive and procedural rights including, but not limited to, HMIT’s objections to the evidentiary format of the June 8, 2023, hearing (“June 8 Hearing”) on HMIT’s Emergency Motion for Leave to File Verified Adversary Proceeding [Doc. 3699] and Supplement to Emergency Motion for Leave to File Verified Adversary Proceeding [Doc. 3760] (together the “Motion for Leave”), including objections to the Court’s May 22, 2023 order [Doc. 3787] (“May 22 Order”). HMIT’s prior objections to an evidentiary hearing were asserted by HMIT during the April 24, 2023, Status Conference, and were further set forth in HMIT’S Reply Brief in Support of its Motion for Leave [Doc. 3785], during the May 26, 2023, hearing regarding Hunter Mountain Investment Trust’s Emergency Motion for Expedited Discovery or, Alternatively, for Continuance of the June 8, 2023 Hearing [Doc 3788], and during the June 8 Hearing, all of which objections are incorporated herein for all purposes (“HMIT’s Evidentiary Hearing Objections”).

allegations in relation to compensation. HMIT's experts possess unique knowledge based upon their experience, background, education, and training. Their testimony would assist the trier of fact. Therefore, pursuant to Fed. R. Evid. 103(a)(2) and Fed. Fed. R. Bankr. P. 9017, HMIT submits the following proffer of evidence:

- a. Declaration of Scott Van Meter and attached exhibits, dated June 19, 2023, attached hereto as Exhibit "1".
- b. Declaration of Steven Pully and attached exhibits, dated June 19, 2023, attached hereto as Exhibit "2".

Dated: June 19, 2023.

Respectfully Submitted,

**PARSONS MCENTIRE MCCLEARY
PLLC**

By: /s/ Sawnie A. McEntire
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*Attorneys for Hunter Mountain
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CERTIFICATE OF SERVICE

I certify that on the 19th day of June 2023, a true and correct copy of the foregoing motion was served on all counsel of record or, as appropriate, on the Respondents directly.

/s/ Sawnie A. McEntire

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